

Will upzoning neighborhoods make homes more affordable?

Cities and states across the country are proposing new upzoning laws to combat the housing crisis. Will they work?

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Housing affordability is a growing issue in America, and there's a battle over how to fix it happening on blocks across the country. Zoning—the rules that govern how cities use their land—is on the front line.

Between 1986 and 2017, the median price of single-family housing in the U.S. rose from 370 percent of the median U.S. household's yearly income to 410 percent, according to the Harvard Joint Center for Housing Studies. Eleven million American households spend more than half their paychecks on rent and utilities. The number of cost burdened renters is on the rise, especially among middle-income households. The percentage of “supercommuters”—meaning those who travel more than 90 minutes each way to work—has skyrocketed. Almost nowhere in the United States is it possible for a minimum-wage worker to afford a two-bedroom apartment. Each year, an estimated 2.5 to 3.5 million people experience homelessness. Progressive coastal cities and rural America alike are experiencing shortages of affordable housing.

Recently, policymakers at the state and local levels across the country have zeroed in on a culprit: zoning that limits development to single-family detached houses in large swaths of America. From the east and west coasts to the Midwest, lawmakers are beating the drum for upzoning, which means changing single-family zoning codes to allow taller and denser housing, like duplexes, triplexes, accessory dwelling units (ADUs), and apartment buildings. In the last few years, upzoning legislation has been introduced or passed in California, Oregon, Washington, Seattle, Minneapolis, Nebraska, Virginia, and Maryland. The federal government has also expressed interest in pressing local governments to relax zoning laws that prohibit multi-family housing.

This week, California legislators failed to advance SB 50, one of the most high-profile upzoning bills to date, which proposed adding density near transit.

But is upzoning enough to alleviate the housing shortage? To answer that question, it's important to know how single-family zoning became perceived as the norm for housing—and how that's fueling the affordability crisis.

A brief history of zoning in America

At its most basic, zoning determines what you can build on a parcel of land (land use) and how much building is allowed (density). Zoning is the primary way cities manage and regulate land. It varies in complexity from place to place, and can either mandate specific uses—such as in New York City's mandatory inclusionary housing that requires affordable units in all new development—or prohibit them, like exclusionary zoning ordinances that once enforced segregation.

The widespread adoption of zoning codes in the United States began in the early 20th century, as cities were urbanizing rapidly. Zoning laws were created to prevent nuisances, like

factories, from entering desirable neighborhoods—an early form of “not in my backyard.” When Los Angeles enacted its first municipal zoning ordinance in 1904, it prohibited “any public laundry or wash house” from entering residential districts. In 1908, LA divided all land into residential and industrial districts, making it the first place to “zone” citywide.

In 1916, New York City enacted the first comprehensive municipal zoning code after concern about skyscrapers blocking light and air and a boom in speculative development. Cramped and overcrowded areas of the city were portrayed by social reformers as unhealthy and dirty—a description with clear racial overtones, since these were also areas where immigrants lived—and less dense areas where light and air could enter were viewed as healthier and safer. “It’s more difficult to keep a mixed district containing stores and dwellings clean and sanitary than a residential district,” the city’s Commission on Buildings District reported in 1916.

Through the 1920s, it was common for neighborhoods to include a variety of housing types—detached single-family houses, duplexes, apartments, bungalow courts—and commercial uses, like corner stores. But as zoning took off, it established primary uses for neighborhoods, which sometimes segregated their populations, too. The few experts who completed zoning codes in their cities were called upon to consult on codes elsewhere. Their segregationist views came with them, even though the Supreme Court declared racial zoning unconstitutional in 1917.

Robert Whitten, co-author of New York City’s 1916 zoning ordinance and president of the American City Planning Institute, believed that “Bankers and leading businessmen should live in one part of town; storekeepers, clerks, and technicians in another; and working people in yet others where they would enjoy the association with neighbors more or less of their own kind.” He also worked on the 1922 zoning code for Atlanta, which helped pave the way for the segregation that continues to define that city. Harland Bartholomew—the planner who developed St. Louis’s 1916 zoning code with the goal of preventing movement into “finer residential districts... by colored people”—was hired to consult on over 500 zoning codes and comprehensive plans over the course of his career, including those for Pittsburgh, New Orleans, Kansas City, Seattle, Louisville, and Washington D.C.

Amid a growing labor movement—in 1919 more than four million workers participated in strikes—industrialists also pushed for homeownership as a way to keep workers happy and more dependent on their jobs. “The man owns his home, but in a sense, his home owns him, checking his rash impulses,” stated the 1919 book *Good Homes Make Contented Workers*. Around the same time, the federal government began promoting single-family detached houses as a way to fight communism and promote capitalism in response to the Red Scare. President Coolidge wrote a 1922 essay called “A Nation of Homeowners,” which promoted single-family detached houses as a patriotic ideal. This ideology continued under Hoover, who, in 1927, praised the growth of suburban neighborhoods: “The tremendous post-war expansion of suburban areas with detached houses which the development of the automobile has helped make possible is one of the finest achievements of the present period of increasing national prosperity.”

“The single family was put on a pedestal,” says Jenny Schuetz, a Brookings Institute expert on urban economics and housing policy. “It was ‘Single-family neighborhoods should only have single-family detached homes’ and a lot of this is about preserving the property values of those homes. [Single-family residential zoning] was about keeping away things that are considered undesirable uses, which might lower property values. There was also some pretty blatant intent to exclude lower-income families, renters, and non-white families.”

Zoning now makes it illegal to build anything other than a detached single-family home on most residential land in many of the American cities with the most competitive housing markets

and strongest job growth, according to a recent *New York Times* analysis. Detached, single-family homes account for 75 percent of all land zoned for residential use in Los Angeles; 94 percent in San Jose, California; 81 percent in Seattle; 77 percent in Portland, Oregon; and 70 percent in Minneapolis.

In areas with high demand for new housing, some lawmakers and economists believe, single-family zoning is a clear restriction on supply, which is driving the price of housing up.

What is upzoning and why are lawmakers proposing it?

In response to the growing housing affordability crisis, policymakers in many cities and states are trying to figure out how to add more housing. The challenge is that buildings occupy most of the land in cities. Upzoning opens up the capacity of this land for more housing. There's also a climate case for upzoning: Building housing closer to transportation and jobs means people have to travel shorter distances to work and shop, lowering vehicle miles traveled and potentially allowing them to use public transportation and walk in lieu of cars.

Upzoning means changing the zoning code to allow taller and/or denser buildings. (This is different from a rezoning, which, in addition to allowing bigger construction, changes land use, like the New York City rezonings of the Williamsburg and Greenpoint industrial waterfront to residential.) It increases the buildable capacity of land, creating the opportunity to increase supply.

As Christopher Herbert, managing director of the Harvard Joint Center for Housing Studies, explains it, as long as there is sufficient demand for housing, developers will build. The price of land, the cost to build a home, and what the market is willing to pay for a home all factor into a developer's math. If the cost of land is low enough that the developer can earn a profit, then the developer will build. By increasing the number of units that can be built on each parcel, upzoning lowers the cost of land per unit. But there's a caveat.

"There's a hope that if we upzone this land worth one million dollars and now we can put two units on it, the land cost is \$500,000 [per unit]," Herbert says. "But as soon as you tell me I can put two units there, it's going to affect the price of land since it becomes more valuable."

A study published in January 2019 in the journal *Urban Affairs Review* analyzed the impact of new upzoning policies Chicago passed in 2013 and 2015 that allowed denser housing near transit stops. The study concluded that over a five-year timespan, upzoning didn't increase housing supply, but it did increase land values.

Proponents of upzoning argue that allowing denser construction will encourage more housing supply, and as more supply enters the market, housing will become more affordable through the filtering effect, where even high-priced new housing can lower rents for lower-income residents by reducing the competition for homes. One challenge with this approach is that added capacity doesn't necessarily translate into added construction because developers don't always choose to build. Additionally, the housing market is so severely pressured in different areas that the filtering effect is highly unpredictable.

Historically, upzoning has been used on a case-by-case basis in cities. When Washington D.C. was planning its metro expansion in the 1960s, for example, Arlington, Virginia, decided to upzone the areas within a half mile of new stations, resulting in seven mixed-use, walkable neighborhoods that are now in heavy demand.

Recent legislation to upzone single-family residential areas en masse focuses on so-called "missing middle" housing—a term coined in 2010 by Berkeley-based architect Daniel Parolek—which includes accessory dwelling units, duplexes, fourplexes, townhomes, and bungalow courts. These housing types fall somewhere between single-family homes and mid-rise multi-family

buildings. When designed thoughtfully, missing-middle housing adds density without dramatically changing the character of a neighborhood.

“The sort of ‘gentle density’ increases that are being proposed now, we haven’t actually seen that much,” Schuetz says.

Some recent attempts at increasing density will be closely watched in coming years to see what effect they have on housing supply and costs. Minneapolis’s 2040 Plan, which passed the city council in October 2019, allows duplexes and triplexes in all single-family neighborhoods and permits 5- and 10-story buildings along transit corridors. Because estimating the market’s response to these changes is unpredictable, the city doesn’t know how much construction these changes will lead to, though it predicts that areas near universities, transit, parks, trails, and retail will see more development first. “The general policy here was to ensure as much land use flexibility as practicable,” says Heather Worthington, Minneapolis’s director of long range planning.

Oregon’s House Bill 2001, which passed in July 2019, legalizes duplexes on all single-family zoned land in cities with populations above 10,000. In cities over 25,000, the bill legalizes triplexes, fourplexes, attached townhomes, and some “cottage clusters” in areas zoned single-family residential. October also saw changes in California: Governor Gavin Newsom signed several housing bills, including AB 68, which allows one ADU and one junior ADU on lots zoned for single-family residential. Cambridge, Massachusetts, is considering an “affordable housing overlay,” which means allowing upzoning only if the new units are 100 percent affordable.

The biggest proposed upzoning legislation to date is California’s SB 50, which, in late January, failed to receive enough votes to move the measure forward. Also known as the More Homes Act, it called for cities and municipalities to add more housing near transit hubs. Proposed by state Sen. Scott Wiener, the bill offered local governments the option to create their own plans or use a default zoning plan from the state. The bill also included requirements that local plans pair low-income housing development with market-rate development—a mandatory inclusionary provision—and would have removed parking minimums. Another provision forbade the demolition of buildings that have housed renters in the past seven years. Because that is a data point that is difficult to quantify—and there’s currently no way to measure that provision—predicting what the overall impact of SB 50 could have been is very difficult, according to experts at UC Berkeley’s Turner Center for Housing Innovation.

“Fundamentally, upzoning is making it legal to build the kind of housing we used to build,” says Brian Hanlon, an advocate for expanded rental housing construction and the president and CEO of California YIMBY, an organization that co-sponsored SB 50. “We’re not talking about building skyscrapers. We’re talking about building the type of walkable missing middle housing California used to build until we stopped building it. And that was when the crisis skyrocketed. These old neighborhoods that were really nice, we should be building more of them.”

There was no guarantee, however, that SB 50 would result in upzoning that looks like older neighborhoods: Local land conditions and existing parcel size will determine what can be constructed.

A recent report from the Turner Center for Housing Innovation and the Urban Displacement Project, two research groups at the University of California, Berkeley, explored how local factors might have influenced SB 50’s impact. It concluded that because builders will have to work around small parcel sizes and existing buildings, “Manhattanization” of areas is unlikely.

In December 2019, Virginia Del. Ibrahim Samirah introduced HB 152, which would allow duplexes to be built on any land in the state zoned for single-family residential without any special permitting requirements. Most new housing in Virginia is suburban sprawl, which contributes to

longer commutes, more carbon emissions, and increased expenditure on municipal services like police, fire, water, and sewage, since service area and cost expand significantly with sprawl. Samirah believes upzoning will help municipalities add housing without increasing infrastructure costs. He also believes that upzoning would increase the value of a homeowners' properties, since they would be able to build a second unit on land to generate rental income. (However, some might argue that distance from neighbors is what people will pay more for, and the added units could detract from neighborhoods as a whole.) The state legislature tabled the bill on January 23, which means it might come up for debate in the future.

According to Delegate Samirah, the current way affordable housing is constructed in his state isn't working. "There are a lot of very expensive solutions to our housing crisis in Virginia, and it seems like throwing money at the problem is the solution," he tells Curbed. "People are advocating for Housing Trust Fund money to develop affordable housing and it's led to very modest results in affordable housing. The same with incentivising developers to set aside affordable units." (Since its inception in 2012, the Virginia Housing Trust Fund has contributed money to 47 projects that have created or preserved 3,000 affordable units.)

Inspired by Oregon's upzoning bill, Nebraska state senator Matt Hansen introduced one for his state in January 2020 called "The Missing Middle Housing Act."

"Whether you're in a high-population state or not, restrictive single-family zoning will be common," he tells Curbed. "[This bill] is a creative solution to our affordable housing shortage that addresses one of the main drivers of our housing shortage: the historical legacy of our focus on single-family homes in the middle of the last century."

Does upzoning work?

Because upzoning of single-family residential land is a relatively new phenomenon—and land markets and regulations differ from city to city—there are few studies that analyze the effects. There is also very little data from pro-upzoning lawmakers on how many units their legislation can or would create, since the housing market is unpredictable.

"Oregon and Minneapolis are going to be our guinea pigs," Schuetz says. "Now that they've got this new legislation, how quickly does the housing market start to respond? Are we seeing increased housing of the kinds that we wanted? Are we seeing enough of that to absorb demand? Is there political backlash? Will they try to walk back some of these changes?"

According to Schuetz, the value of upzoning lies in areas where land value is high, where developers already want to build, and where additional units will generate a profit for whoever owns the land. However, when "gentle increase" upzoning has been introduced into these markets, it hasn't resulted in enough development to make a significant impact on housing affordability.

For example, Washington, D.C. has had relatively little ADU construction since its upzoning law was passed in 2017: less than 100 units per year have been approved by the city. "Really wealthy homeowners are not interested in creating ADUs in their backyard," Schuetz tells Curbed. "But they've also run into other problems, particularly with basement apartments. It's not the zoning, it's the building code. A basement apartment has to have a minimum seven-foot ceiling to be considered an apartment. There are a lot of basements that don't meet that requirement and it's really expensive to dig an extra foot in your basement."

In 1997, Portland, Oregon, changed its permitting and zoning rules to allow ADUs. Relaxing its regulations has only resulted in modest uptake: In 2016, the city issued only 600 permits for ADUs—not enough to shift the supply curve in a meaningful way, according to Herbert.

“The way we think of this kind of upzoning is, it’s not the solution [for affordability], but it’s a solution to add housing to these built environments,” he says.

Herbert is also skeptical about upzoning’s impact on affordability, since the housing market is structured to maximize profit.

“A lot of cities are saying let’s open the spigots, we’ll build so much housing we’ll get to the point where we get vacancies,” Herbert says. “But If developers see vacancies rise they will stop building...It’s the nature of our capitalist system.”

Meanwhile, the definition of success in upzoning is subjective. First, there’s the question of whether upzoning will result in more construction. Then there’s the question of whether or not that new construction will help make housing affordable.

Upzoning reduces the cost per unit for land since the cost of the land is spread over more units. Changing the zoning code to allow more housing doesn’t necessarily mean new housing will be built if other regulations, like building codes (e.g. setbacks and ceiling heights) and the permitting process, make it too expensive for developers to build. Plus, the construction labor shortage is pushing the cost of building even higher. This is one of the reasons why all new housing is constructed is so expensive.

“In general, developers are going to seek the highest profit possible, that’s what they’re supposed to do,” Herbert says. “Now, we’re building a lot of high-end housing. Because the development process is constrained, developers are going to build at the highest point of the market they can, because they’re the few [projects] that get through.”

“The potential for getting more housing through upzoning varies a lot across different geographies,” Schuetz says. If a neighborhood is zoned to allow an eight-story but demand is only for a four-story building, for example, developers will only construct a four-story building. “I’m hoping that state and local governments are thinking about their own markets and trying to figure out where this is the appropriate policy and where there’s something else they should be doing.”

Schuetz believes that there are high-housing-demand cities—like D.C. and Chicago—where land-use laws already allow denser housing to be constructed, but because the process is too expensive and it takes too long, developers don’t do it.

“We haven’t focused much on the regulatory process as much as the bans on multi-family housing, and I think to be effective [in increasing housing supply] we’re going to have to tackle both of them,” she says, adding that there is a research gap in how much regulations impede development.

Another issue with the housing market is that new market-rate housing will never be affordable to low-income and extremely low-income renters, millions of whom earn \$7,500 a year or less. “These are strategies to affect the broad middle of the market, for the moderate-income household, but it’s not going to bring housing into the reach of the poorest households,” Herbert says. Subsidies—such as housing vouchers for renters or tax credits for developers—would be needed to bridge that gap.

Some progressive housing groups are voicing their concerns about upzoning’s impacts on low-income and extremely low-income families. Moms 4 Housing—an anti-displacement, affordable housing advocacy group started by homeless women that took over a vacant, investor-owned house in West Oakland—protested California’s SB 50 because they believe the bill will lead to more luxury, market-rate housing and gentrification, and won’t do enough to help people like them in terms of affordable housing creation.

Carroll Fife, director of the Oakland/San Francisco Alliance of Californians for Community Empowerment and a spokesperson for Moms 4 Housing, takes issue with SB 50’s

emphasis on market-rate housing. She believes new housing must be targeted toward people who earn minimum wage. “We need housing for people who make less than \$40 an hour,” she tells Curbed.

She advocates for amending the California constitution to declare housing a human right, which would then inspire lawmakers to get creative about how to achieve it. “We’re all on the verge of being housing insecure if the markets are allowed to continue to move in the way that they’ve been moving,” Fife says. “We all need housing, so why don’t we safeguard something that should be a human right for everyone, by changing the law for everyone?”

Alliance for Community Transit, a group that advocates for equitable transit-oriented communities, announced that it will oppose SB 50 unless it includes amendments that address gentrification, unless it is amended to include strong and enforceable provisions to prevent direct displacement, support community planning in sensitive communities, and include strong affordable housing standards with deep affordability levels commensurate with the density provided through the bill’s incentives.

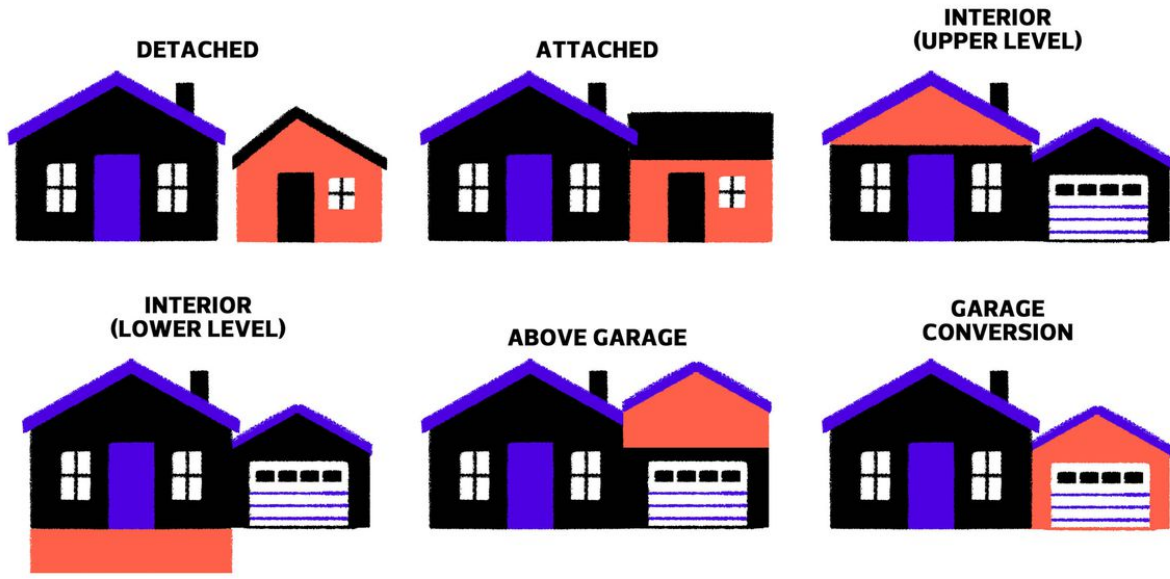
Even the staunchest proponents of upzoning acknowledge limitations, but reckon the legislation is still essential to tackling the affordability crisis.

“Upzoning by itself is not enough,” says California YIMBY’s Brian Hanlon. “It’s not going to solve [the affordability crisis] for everyone and not on a timescale that will help everyone...We need a whole panoply of legislation.”

The panoply that Hanlon refers to is the “Three Ps”: housing production, through legislation that makes it easier to add housing supply; preservation of affordable housing, like rent stabilization laws; and protection for people who are already in affordable housing, like right to counsel laws for people facing eviction, which New York City is experimenting with.

Zoning isn’t the same as comprehensive planning, and Schuetz believes that targeted and direct approaches to addressing the housing shortage—like tying state funding to having a housing plan—are needed to incentivize production versus blanket directives, like upzoning an entire state or city.

“I would like cities and states not to try to fix zoning piecemeal with ‘lift the ban on multi family, let’s allow ADUs,’” she says. “I would rather they give local governments quantitative targets for how much housing they ought to produce. We can look at things like rate of population growth and job growth and get a sense of the places that really aren’t building enough housing to keep up with demand, give them a target, and then give them some financial carrots and sticks to keep them accountable.”



Proponents of upzoning say that the added density wouldn't change the character of neighborhoods. ADUs, for example, could take multiple forms, from garage conversions to standalone cottages. Alyssa Nassner

Who supports and who opposes upzoning?

While most people can agree that there's an affordable housing shortage, there's disagreement on how best to address it.

Older homeowners from both sides of the political spectrum oppose new housing and are disproportionately represented at community meetings that discuss zoning. Progressive housing groups often oppose upzoning since it doesn't address the systemic inequities at the root of the affordable housing crisis and relies on trickle-down economic theory.

In Minneapolis, a number of different interest groups came together to support upzoning: environmental activists, senior citizens, trade unions, and the city planning department.

However, the Audubon Society's Minneapolis chapter is challenging the city's upzoning plans, arguing that the city didn't conduct proper environmental review.

In Oregon, some cities expressed concern about the extra pressure on their infrastructure. Arguments opposed to new housing frequently cite changes in "neighborhood character" as reasons why such legislation shouldn't be passed.

"The idea of 'preserving neighborhood character' is nicely vague enough that it can cover lots of things without being very explicit," Schuetz says. "They're worried about changing the feel of the neighborhood with taller buildings. But for many people this is also the type of person who lives in the neighborhood. If it's white and wealthy and mostly nuclear families, there are places that would like to keep that. And they don't have to say we want to keep out black people, they just have to say 'we want to preserve the neighborhood character.'"

Housing advocates who fear displacement and gentrification—like Oakland's Moms 4 Housing—are also concerned about changes to neighborhood character upzoning might accelerate.

California state senate candidate Jackie Fielder is running on a social justice platform. Housing is a major part of her agenda and she signed the Homes Guarantee pledge, which includes repositioning housing a human right rather than a commodity. She has criticized SB 50 for its reliance on trickle-down economic theory, its focus on market-rate housing, and its lack of attention to affordable housing creation and protection for vulnerable communities.

“We need to build for need—not for profit,” Fielder recently said. “And with the fifth-largest economy in the world, with 157 billionaires worth more than \$700 billion combined, California has all the resources we need to do more.”

In New York City, upzonings in Inwood and Bushwick, which have high percentages of Latino residents, have been halted in the wake of concerns about displacement. Advocates and politicians are calling for racial impact studies of rezonings.

“No one is pretending that we don’t need housing,” says Sylvia Morse, an urban planner and co-author of the book *Zoned Out! Race, Displacement, and Planning in New York City*. “It’s a question of what housing are we building? And, especially in such hot land markets like New York City, if you are not regulating and if you are not making commitments and investments—particularly investments in land that is in the public domain—the private sector will only try to maximize profit and that is what it is there to do.”

To Morse, the housing shortage problem is deeper than just supply and demand and extends to systemic issues of ownership and control, which are tied to race and class.

“Zoning on its own is not going to be able to address those deep questions of ownership, control, resources, intergenerational wealth, all of those things that are tied into the places where people live,” Morse says. “All zoning says is here’s the kind of use that can go here, and here’s how big it can be—that’s all it says. And that is too blunt a tool [to address affordability] without being paired with public land commitment, without some forms of cooperative governance, without a reparative framework, we’re not going to be able to address the actual underlying housing crisis.”

To Schuetz, gentrification and displacement shows why comprehensive planning, and not just rezonings, are needed.

“If you live in a neighborhood where there’s a bunch of new construction going on and then the rents in the new building are higher than the old building, it’s hard not to look at that and say: ‘The neighborhood is changing and more affluent people are moving in,’” Schuetz says. “What’s hard is that we’re often missing the larger regional context. So individual neighborhoods in hot urban areas are seeing a fair amount of housing. Most of those regions haven’t been building housing to keep up with demand for 30 years. Well, you’re suppressing new housing in 80 percent of the city where you can’t change what’s there. In the 20 percent of the city that’s allowed new development, that’s absorbing all of the demand, of course the rents are going to go up there.”

The future of upzoning and the housing crisis

At the heart of the upzoning debate is a seemingly simple question: Can we provide more affordable housing solely by allowing for more construction? But the real question is much deeper: Can we build our way out of a crisis that’s the product of an economic system that extracts as much as it can from most individuals in order to enrich the few?

“You have to have a roof over your head,” Harvard’s Christopher Herbert says. “As Matthew Desmond said in his book *Evicted*, ‘The rent eats first.’ As long as you have that primacy of housing in terms of the pecking order of expenses, it will push rents higher.”

Today’s housing crisis is the result of decades of policy decisions at the local, state, and federal levels on land use, transportation, taxes, and labor. It’s bigger than zoning, but because zoning is one of the few aspects of the way we live that’s under local control, it’s where local legislators—who are on the front lines of the crisis—are acting.

Upzoning is challenging a symbol of American homeownership—the single-family home—that has been subsidized by the government for over a century, and that remains a major

source of wealth for millions of people. The real debate around upzoning is an ideological reckoning over whether housing is a commodity or a right. Solutions that fail to address this question cannot solve the housing crisis.

“We have got to decommodify [housing],” Fife says. “We’ve got to take the profit motive out of essential needs. That’s the biggest fight. We need to figure out other ways for investors to make money that don’t rely on the things that people need to survive. We shouldn’t be able to commodify air, water, and housing. Make money off Jordans, not housing.”